

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
Docket No. 2014-288-C

IN RE:	)	
	)	
Joe Rincione, Complainant/Petitioner	)	
	)	MOTION TO DISMISS
v.	)	
	)	
Frontier Communications, Defendant/Respondent	)	

Pursuant to S.C. Code Ann. Regs., 103-829, Rule 12(b)(6) of the South Carolina Rules of Civil Procedure and applicable South Carolina law, Respondent, Frontier Communications of the Carolinas LLC (“Frontier” or “Company”) hereby moves the Public Service Commission of South Carolina (“Commission”) to dismiss the above-captioned matter on the merits because it fails to state a claim upon which relief can be granted, and because the Complainant/Petitioner Joe Rincione has verbally stated to the Company his intent to withdraw his complaint.

**BACKGROUND**

Petitioner subscribed to Frontier’s business voice and internet services under three-year service agreements which expired in April of 2014, at which time he agreed to extend his service agreements for another three years. During the initial three-year term and the beginning of his second three-year term, he experienced internet access speeds below his expectations. Petitioner cancelled both his voice and internet service prior to June 2014, and Frontier applied early termination fees in accordance with the executed service agreements. Upon receiving notice from the Office of Regulatory Staff of a complaint by Petitioner, Frontier agreed and did credit Petitioner’s account for the portion of early termination fees associated with internet service, leaving only early termination fees associated with voice service.

However, following the Complaint with Commission, the parties again worked to resolve the issues between them and that the Complaint shall be withdrawn.

#### **Failure to State a Claim**

Frontier respectfully requests that the Complaint be dismissed pursuant to Rule 12(b)(6), SCRCP, for failure to state facts sufficient to constitute a claim. Petitioner finds fault with Frontier's assessment of early termination charges associated with his business voice services, but fails to identify any reason permitted by tariff for waiver of those charges. Furthermore, Petitioner had an opportunity just two months ago, in April 2014, to select another service option that did not include early termination fees but chose instead to re-commit to a second three-year term. After initially working with Petitioner concerning his issues with early termination fees associated with internet service, and after additional discussions with Petitioner, Frontier and the Petitioner have resolved the remaining early termination fee issue between them. Petitioner advised Frontier that he will withdraw his complaint with the Commission in consideration of their resolution. Because Petitioner is out of town this week, he indicated that his notice of withdrawal will be filed during the week of July 14, 2014.

#### **CONCLUSION**

Since there is no allegation that Frontier has acted inappropriately or violated any applicable statute or regulation, and since the parties have resolved their issues and Petitioner has expressed his intent to withdraw his complaint, there is no basis for Commission action. Therefore, this matter should be dismissed. For the foregoing reasons, Frontier respectfully requests that the Commission to grant its Motion to dismiss with prejudice, and to close this matter.

WEREFORE, Frontier moves the Commission to dismiss the Complaint with prejudice and to hold in abeyance the hearing schedule and the deadlines for the testimony from any and all parties pending confirmation of Petitioner's notice of withdrawal and action by the Commission concerning this Motion.

Respectfully submitted, this 11<sup>th</sup> day of July, 2014,

FRONTIER COMMUNICATIONS OF AMERICA, INC.

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